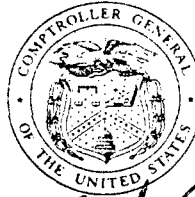


DECISION



17670
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Protest of Bid Rejection as Nonresponsive]

FILE: B-201028

DATE: April 6, 1981

MATTER OF: Sprague & Henwood, Inc. *DLG dd449*

DIGEST:

1. Rejection of low bid as nonresponsive is proper where descriptive literature does not demonstrate bidder's compliance with specifications.
2. General compliance offer and bidder's past experience do not cure failure to supply descriptive literature required by IFB as necessary element in evaluation to determine if product offered meets specifications.

Sprague & Henwood, Inc. (S&H) has protested the award of a contract for an underground drainage drill to Dowty Corporation (Dowty) under invitation for bids (IFB) No. S0308130, issued by the Department of the Interior, Bureau of Mines. *DLG 0645*

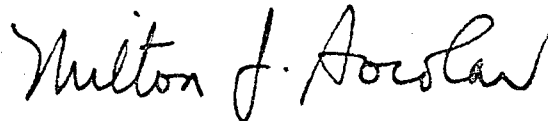
Three bids were received and publicly opened on September 19, 1980. The low bid was submitted by S&H. However, S&H's bid was determined to be non-responsive for failure to provide adequate descriptive literature as required by the solicitation. Therefore, award was made to Dowty, the second low bidder.

The IFB contained a Requirement for Descriptive Literature clause essentially identical to that which appears at Federal Procurement Regulations § 1-2.202-5 (d)(1) (1964 ed. amend. 10). During evaluation of bids, the agency's technical project officer concluded that S&H's descriptive literature indicated that S&H would supply a drill having an excessive feed length. In addition, the literature failed to address the following technical matters:

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underground drainage drill, for example, will be used under methane gas conditions and that only a properly approved motor and motor control, sealed to prevent electrical sparks, would be acceptable in meeting the agency's minimum safety needs. Consequently, lack of information from S&H concerning approved motor and motor control did not permit the agency to determine conformance of the protester's offered product with the specifications. No showing has been made that the agency's determination that the data submitted by S&H was insufficient is erroneous or arbitrary. Further, we note that a general compliance offer does not cure a failure to supply descriptive literature required by the IFB as a necessary element in the evaluation to determine if the product offered meets the specifications. 36 Comp. Gen. 415 (1956); Slack Associates, Inc., B-195305, July 28, 1980, 80-2 CPD 69. Neither does extensive previous experience cure such a failure since a bidder's intention to comply with all IFB specifications must be determined from the face of the bid itself. United McGill Corporation and Lieb-Jackson, Inc., B-190418, February 10, 1978, 78-1 CPD 119. Therefore, we find the rejection of S&H's bid to have been proper.

The protest is denied.



Acting Comptroller General
of the United States